

UNITED STATES DISTRICT COURT
for the
District of South Carolina

In the Matter of the Search of _____
*(Briefly describe the property to be searched
or identify the person by name and address)* }
 5146 Ashley Phosphate Road, Unit 3120 }
 North Charleston, South Carolina 29418 }
)
)
 Case No. 2:21-cr-264

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (*identify the person or describe the property to be searched and give its location*):

See attached affidavit and Attachment A

located in the _____ District of South Carolina, there is now concealed (*identify the person or describe the property to be seized*):

See attached affidavit and Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (*check one or more*):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
Title 18 United States Code, Section(s) 545 and 2320(a)(1)	Section 545: Unlawful importation of merchandise contrary to law
	Section 2320: Trafficking of Counterfeit Goods or Services

The application is based on these facts:

SEE ATTACHED AFFIDAVIT

- Continued on the attached sheet.
- Delayed notice of _____ days (*give exact ending date if more than 30 days*: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

J. Shane Brim
Applicant's signature

J. Shane Brim
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
cellular telephone _____ (*specify reliable electronic means*).

Date: April 28, 2021



Mary Gordon Baker
Judge's signature

The Hon. Mary Gordon Baker, U.S. Magistrate Judge

Printed name and title

City and state: Charleston, South Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

IN THE MATTER OF THE APPLICATION)
FOR SEARCH WARRANT FOR) Number: 2:21-cr-264
5146 ASHLEY PHOSPHATE ROAD,)
UNIT 3120)
NORTH CHARLESTON, SC 29418)

AFFIDAVIT IN SUPPORT OF APPLICATION UNDER RULE 41 FOR A
SEARCH WARRANT

I, J. Shane Brim, being duly sworn, depose and state the following:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent employed by the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI). Prior to March 1, 2003, I was employed by the Department of Treasury, United States Customs Service, Office of Investigations. I have been employed by these two agencies as a Special Agent since August 9, 2001. Prior to my tenure with the federal government, I was employed as a police officer in Greensboro, North Carolina for over three years. My primary responsibilities have included the investigation of criminal violations of the Controlled Substances Act, (Title 21, United States Code,) the Money Laundering Control Act (Title 18, United States Code), the Foreign Bank Secrecy Act (Title 31, United States Code), and related offenses. I have also conducted and participated in numerous criminal investigations involving the unlawful importation, into the United States, of merchandise contrary to law (Title 18, United States Code, Section 545) and trafficking in counterfeit goods or services (Title 18, United States Code, Section 2320).

2. As an HSI Special Agent, I received extensive basic and advanced training at the Federal Law Enforcement Training Center in Glynco, Georgia. This training covered aspects of the importation of materials contrary to the laws of the United States and related financial investigations specifically involving the acquisition and concealment of illegal assets. I have obtained significant experience in the investigations of these and a multitude of other matters during my tenure as a federal law enforcement officer and have functioned in a variety of capacities to include but not limited to: a case agent coordinating undercover activities and supervising confidential informants; a surveillance agent observing and recording the movements of individuals involved in or suspected of trafficking in drugs or other illicit contraband; and interviewing witnesses, cooperating defendants, and/or informants regarding these illegal activities. I have further conducted or participated in the execution of numerous search and arrest warrants in connection with the above-mentioned investigations.

3. The following facts are presented to support the issuance of a search warrant for the commercial location(s) listed below:

5146 Ashley Phosphate Road, Unit 3120, North Charleston, SC 29418. (*See Attachment A for a description of the premises to be searched.*)

4. The information set forth in this Affidavit was obtained during the course of this ongoing investigation by myself or has been provided to me directly or indirectly by other law enforcement officers. Since this Affidavit is submitted solely for the purpose of establishing probable cause to support the issuance of a search warrant for the premises more fully described in Attachment A, I have not set forth all the facts and circumstances known to me or to other investigators regarding this matter. Further, the

following information is known to me in my official capacity. Based on this information, I have reason to believe that individuals associated with the aforementioned business have committed one or more of the following violations of federal law: (1) the unlawful importation of merchandise contrary to law in violation of Title 18, United States Code, Section 545; and (2) the trafficking of counterfeit goods or services in violation of Title 18, United States Code, Section 2320.

OVERVIEW OF THE INVESTIGATION

5. In late October 2019, HSI Charleston identified a subject through a public search of Facebook advertising new shoes, clothing, and accessories typically sold in authorized retail stores, with trademark brands such as Nike, Jordan, Ugg, Polo and Ralph Lauren. The Facebook profile was listed as “Jay Boss”. The introduction to “Jay Boss” within the Facebook page showed CEO at Fly’n Foreign Apparel. Based on the conversations within the Facebook page, the subject received orders from customers/followers, but also had items on hand sold within a storefront business identified as “THA SPOT” located at 3316 Ashley Phosphate Road, #7, North Charleston, SC.

6. An open source query of Fly’n Foreign Apparel revealed a page on www.aliveshoes.com advertising Fly’n Foreign sneakers by Joel WASHINGTON. An online query of the South Carolina Department of Motor Vehicles (SCDMV) for WASHINGTON revealed Handsome Joel WASHINGTON had a current address at 156 Meadow Wood Road, Summerville, SC. A SCDMV photo of WASHINGTON matched that of the subject depicted in photographs of the Facebook profile “Jay Boss”. SCDMV records show additional licensed drivers at 156 Meadow Wood Road include Nicole Latrice Washington.

7. An online query of filings through the South Carolina Secretary of State revealed WASHINGTON was the registered agent for ENUS ENTERPRISES LLC (filing date of December 28, 2018) and H.J. WASHINGTON ENTERPRISES LLC (filing date of November 15, 2010).

8. A query of the Automated Targeting System (ATS) revealed approximately one hundred forty-two (142) mail shipments to 156 Meadow Wood Road, Summerville, SC from countries including but not limited to Hong Kong and China beginning on May 9, 2015 through January 7, 2020. The cargo description for the parcels were generally listed as footwear, shoes, or sneakers. Of the one hundred forty-two shipments to 156 Meadow Wood Road, the consignee breakdown was as follows: Joel WASHINGTON (131), FLY'N FOREIGN APPAREL (6), H.J. WASHINGTON ENTERPRISES (2), Nicole WASHINGTON (2), BUUR Retail (1). On multiple shipments to WASHINGTON, the shipper was identified as THE SUNRAIN, FLYING ASIA PACIFIC, JUSDA INTERNATIONAL, GUOXING HAO PUBLIC SERVICE, and GUANGZHOU CHUANGHUANG GARMENT, known distributors of counterfeit merchandise, specifically jerseys, shoes, and clothing with multiple seizures reported by Customs and Border Protection (CBP).

A. **NOVEMBER AND DECEMBER 2019 SURVEILLANCE AND UNDERCOVER PURCHASES.**

9. On November 6, 2019 at 1346 hours, the Affiant conducted drive-by surveillance of THA SPOT and observed a silver Chrysler sport utility vehicle backed up to the business. Several minutes later a black male exited the business and entered the silver sport utility. The vehicle exited the business complex parking area and traveled a short distance before pulling into an apartment complex. The subject parked the sport

utility vehicle and was last seen entering Apartment #2 located at 3485 Mountainbrook Avenue, North Charleston, SC. The Affiant was then able to observe the vehicle displayed South Carolina license plate IWR864, registered on a 2008 Chrysler Aspen to Sakenah Arkim Williams at the same Mountainbrook Avenue address. A query of SCDMV for additional subjects at the same Mountainbrook address revealed Victor Dwayne MACK as a resident. A review of MACK'S SCDMV driver's license photograph confirmed this was the same individual seen exiting THA SPOT and operating the Chrysler.

10. On November 13, 2019, at 1548 hours, the Affiant conducted drive-by surveillance of THA SPOT and observed the silver Chrysler Aspen and a light blue BMW sport utility vehicle backed up directly in front of the business. Within minutes, a black male identified as WASHINGTON exited the business and entered the BMW. The BMW exited the parking lot and the Affiant observed the vehicle displayed South Carolina license plate RVS464 registered to WASHINGTON.

11. On November 21, 2019, HSI Charleston utilizing an HSI undercover agent (UCA), conducted an undercover (UC) purchase of suspected counterfeit apparel from THA SPOT located at 3316 Ashley Phosphate Road, #7, North Charleston, SC. The UCA purchased two youth Nike sweat suits/jumpsuits for approximately \$100 in cash (\$50 per outfit including pants and sweatshirt). The blue small suit and black extra-large suit each contained a Nike tag listing the retail price as \$179.00. Investigator Rick Hawks, a representative of Blazer Investigations¹ specializing in Intellectual Property

¹ Blazer Investigations represents a variety of trademark and copyright holders, including, but not limited to, Nike.

Right matters, later notified HSI that the Nike sweat suits purchased from THA SPOT were counterfeit.

12. On November 26, 2019, the Affiant received a response pursuant to a summons issued to Berkeley Electric Cooperative (BEC) for customer information related to 156 Meadow Wood Road, Summerville, SC. BEC records revealed the address was under the account name of Handsome Joel WASHINGTON with a connection date of March 19, 2015.

13. On November 27, 2019, the Affiant received a response pursuant to a summons issued to Dominion Energy for customer information related to 3316 Ashley Phosphate Road, #7, North Charleston, SC. THA SPOT located at 3316 Ashley Phosphate Road, #7, North Charleston was an active Old Dominion account established on June 5, 2019 under business customer, ENUS ENTERPRISES LLC.

14. On December 11, 2019, HSI Charleston utilizing an HSI undercover agent (UCA), conducted an undercover (UC) purchase of suspected counterfeit Nike shoes from THA SPOT located at 3316 Ashley Phosphate Road, #7, North Charleston, SC. MACK took the UCA to the rear room after learning the UCA was interested in purchasing shoes. MACK showed the UCA his entire on hand inventory which included: Nike, Ugg, Timberland and Jordan. The UCA purchased a pair of Nike Air Barrage (size 11) for approximately \$80 in cash. The orange Nike box had a sticker listing the suggested retail price as \$250.00. Investigator Rick Hawks later notified HSI that the Nike shoes purchased from THA SPOT were counterfeit.

B. JANUARY 16, 2020 SEARCH WARRANT AND POST-WARRANT INVESTIGATION.

15. On January 16, 2020, HSI Charleston executed a federal search warrant on THA SPOT. At the time of the warrant, MACK was operating the business. A search of the business yielded approximately \$82,740.00 in counterfeit clothing, apparel, and accessories. With the exception of two boxes of clothing from a local outfitter, no authentic trademarked apparel was located within the business. MACK stated he and WASHINGTON opened the storefront business in the Fall of 2019. MACK told agents he had been selling apparel for years, previously selling to customers from his vehicle merely through word of mouth before opening the store. MACK denied receiving apparel from foreign distributors and was unable to provide any specifics on WASHINGTON'S distributors. Furthermore, MACK did not acknowledge or deny the implication of selling counterfeit goods. MACK told agents he provided items to those who couldn't afford to buy the same items in a store. While speaking with MACK near the front counter, the Affiant asked MACK the cost of the Versace belts that were laying within close proximity to the Affiant and MACK. MACK replied that he sold the belts for \$30 apiece. MACK acknowledged that authentic Versace belts were sold at retail price for \$300-\$400.

16. On several occasions in 2020, attempts to locate MACK were unsuccessful at his previous address on Mountainbrook Avenue in North Charleston, SC. A query of CLEAR records for Sakenah Williams who was last known to reside with MACK revealed she had moved to an address in close proximity around July 2020 to 7546 Plantation Road, Apt 8, North Charleston, SC. On February 17, 2021, the Affiant observed the Aspen previously operated by MACK departing from the aforementioned

apartment. The vehicle traveled directly to the Extra Space Storage located at 5146 Ashley Phosphate Road, North Charleston, SC. The Affiant was unable to see the driver exit the vehicle, but shortly thereafter, MACK was observed walking from inside the storage facility. MACK was carrying a large bag before placing it in the backseat of the vehicle on the driver's side. MACK sat inside the car briefly before exiting once again while talking on a cellular phone. MACK walked back inside the facility and was observed getting into the elevator. Minutes later, MACK once again exited the facility with an additional bag before also placing it into the rear of the vehicle before returning to his residence.

17. On February 26, 2021, HSI Charleston agents initiated surveillance at and around the residence of MACK. Agents observed the Aspen depart the residence occupied solely by MACK. The vehicle traveled directly to the Extra Space Storage located at 5146 Ashley Phosphate Road, North Charleston, SC. On numerous occasions this day, agents observed MACK exit the storage facility carrying a black plastic shopping bag. MACK would then enter the Aspen and travel directly to the nearby Shell gas station located at 8410 Dorchester Road, North Charleston, SC. MACK would then meet individuals in the pump area of the gas station whereby an exchange would occur between MACK and the unknown parties. On one such occasion after the exchange took place, the unknown male who had received items from MACK was observed holding up several shirts.

18. A query of ATS for additional shipments received following the federal search warrant revealed an additional sixty-three (63) mail shipments to WASHINGTON or subjects believed to be associated with WASHINGTON from countries including but

not limited to China from January 20, 2020 to March 2, 2021. The cargo description for the parcels were again listed as shoes, track suits, or jackets. Of the sixty-three shipments, twelve were shipped to Joel WASHINGTON at 156 Meadow Wood Road, one to Nicole WASHINGTON at 156 Meadow Wood Road, five to Kareama MYERS at 156 Meadow Wood, six to Joel WASHINGTON at 325 Marymeade Drive, Apt 420, Summerville, SC, and thirty-nine to Nicole WASHINGTON at 5127 Morrow Lane, Summerville, SC. Shippers were identified as THE SUNRAIN, SMOT, and LI JUN, known distributors of counterfeit merchandise with multiple seizures reported by CBP.

C. EXTRA SPACE STORAGE.

19. On March 4, 2021, the Affiant served a Summons to Extra Space Storage located at 5146 Ashley Phosphate Road, North Charleston, SC for records related to past or current rental agreements by MACK or WASHINGTON at the facility. On March 8, 2021, Extra Space Storage advised they were prepared to provide documentation related to the requested storage records. On March 8, 2021, at approximately 1008 hours, the Affiant arrived at the Extra Space Storage to retrieve the documentation. When the Affiant arrived, he noticed MACK'S vehicle parked outside the location and decided to return later in the day. On March 8, 2021 at approximately 1523 hours, the Affiant once again returned to the facility and observed MACK'S vehicle again parked outside the storage facility. After observing MACK'S vehicle, the Affiant spoke with personnel at the storage facility who stated the white Dodge Durango parked beside MACK'S vehicle was being operated by the person he/she knew as MACK'S partner. At approximately 1606 hours, the Affiant observed a male subject walk from inside the facility to the Durango, while holding a black bag that contained a box similar to that of a shoe box.

The Affiant then identified the subject who personnel at the storage facility knew as MACK'S partner was in fact WASHINGTON. MACK was next observed walking from inside the unit while talking on a cellular phone in the parking lot.

20. At approximately 1609 hours, the Durango exited the storage unit and traveled directly to the same nearby Shell gas station as MACK had done on previous occasions when meeting customers. The Durango pulled up to a pump and WASHINGTON remained in the vehicle the entire time. The vehicle displayed Ohio license plate GMQ5676, registered on a 2020 Dodge to PV Holding Corp at 3801 International Gateway, Columbus, OH. At approximately 1613 hours, the Durango exited the Shell and traveled directly back to the storage unit. The Durango remained stationary for only one minute before departing toward Ashley Phosphate. The Durango exited the area with an unknown direction of travel. The Durango ultimately returned to the storage unit at approximately 1623 hours. WASHINGTON exited the Durango carrying a black bag and reentered the storage units. At approximately 1659 hours, MACK walked from the storage unit, entered the Aspen, and traveled to the Shell gas station. The Affiant observed an unidentified black male walk from a black Ford Focus before retrieving a bag from the Aspen driven by MACK. MACK then exited the Shell and traveled back to the storage unit.

21. On March 10, 2021, the Affiant received records related to the rental of two units within the facility. The first unit (1153) is a 10x10 climate-controlled unit on the main floor and the second unit (3188) is a 10x25 climate-controlled unit on the third floor that is accessed by elevator. Unit 1153 has been rented since May 29, 2020, while Unit 3188 has been rented since April 29, 2020. The biographical data listed MACK of

3485 Mountainbrook Avenue, Apt 2, North Charleston, SC on the rental records for both units. The rental price for Unit 1153 is \$97 per month and Unit 3188 is \$210 per month. According to Extra Space Storage, MACK always paid with cash.

22. Personnel at the Extra Space Storage further informed the Affiant that MACK would be at the unit daily. In fact, MACK would come and go multiple times a day during operating hours and was likely the most seen patron at the facility. Personnel stated they have only seen MACK around what was described as his “personal” unit (1153) on one or two occasions. MACK frequented unit 3188 the most. Personnel provided that unit 3188 was filled with boxes of shoes and shirts and had the appearance of a business being operated by MACK from within the unit. MACK was often observed sitting in a chair within the unit, organizing merchandise, and/or talking on a cellular phone. Furthermore, MACK was cautious about who walked by the unit and told personnel he was glad the unit was somewhat secluded near the rear from other patrons at the facility. Personnel further stated that MACK’S “partner” visited unit 3188 at least several times a week, but he was present much less frequently than MACK.

23. On March 24, 2021, the Affiant received a response pursuant to a Summons issued to Avis Budget Group related to the rental of the white Dodge Durango observed at the storage facility on March 8th. Rental agreement records revealed the vehicle was assigned to Joel WASHINGTON of 156 Meadow Wood Road, Summerville, SC. The vehicle was checked out on February 8, 2021 and returned on March 9, 2021.

24. On April 2, 2021, the Affiant reviewed exterior surveillance footage located near the entrance of Extra Space Storage located at 5146 Ashley Phosphate Road, North Charleston, SC showing MACK and WASHINGTON unloading boxes from

vehicles before taking them inside the storage facility. The surveillance footage does not evidence which unit the boxes are stored in. At approximately 2017 hours, footage shows MACK operating the Aspen back up to the main entrance doors to the storage facility. A black sedan is next observed backing up to the main entrance doors to the storage facility. WASHINGTON is then observed exiting the sedan displaying Florida license plate NGEV87, registered on a 2019 Chevrolet Impala to Hertz Vehicles LLC of 5400 Butler National Drive, Orlando, FL. MACK and WASHINGTON then remove four (4) large cardboard boxes from the rear of the sedan before placing them on a hand truck/dolly and taking them inside the facility. The four boxes were seemingly identical in size and characteristics to those seized in 2020 that contained counterfeit goods from the store operated by WASHINGTON and MACK.

25. On April 27, 2021, the Affiant was contacted by personnel at the Extra Space Storage facility who advised that MACK had requested a transfer from unit 3188 to a smaller unit. According to facility personnel, MACK told them that he and his partner had mutually decided to work separately. A storage unit transfer was accomplished for MACK from unit 3188 to unit 3120, a 10x10 interior unit located on the third floor. Facility personnel informed the Affiant that the rental cost of unit 3120 is \$132 per month. As a result, MACK has received a partial credit for the prorated price from unit 3188. Access to unit 3188 remains valid to MACK through April 30, 2021. As a result, the Affiant believes counterfeit goods pertaining to MACK will be present in unit 3188 until April 30, 2021.

26. MACK advised Extra Space Storage personnel that he would be moving his portion of the merchandise from unit 3188 to unit 3120. Extra Space Storage personnel

advised the Affiant that they have observed MACK moving some items from unit 3188 to unit 3120. Extra Space Storage personnel further observed MACK taking boxes similar in appearance to shoe boxes from the Chrysler Aspen up to unit 3120. On April 27, 2020, at approximately 1540 hours, the Affiant arrived at the storage facility and observed the Chrysler Aspen parked outside. Minutes later, MACK exited the storage facility with a black bag before placing it in the rear of the vehicle. After a brief conversation on his cellular phone, MACK entered the vehicle and exited the parking lot towards Dorchester Road.

**BACKGROUND REGARDING SEIZURE OF
ELECTRONIC STORAGE DEVICES**

27. Based on my training and experience, I use the following technical terms to convey the following meanings:

- a. Electronic Storage Device: electronic storage devices include any device capable of electronic data storage which is defined as storage that requires electrical power to store and retrieve that data. Electronic storage devices include but are not limited to the following:
 1. Computers and computer storage devices including hard drives, diskettes, laser disks, multimedia cards, and others which may store the equivalent of thousands of pages of information.
 2. Wireless telephones and other mobile devices such as tablets including popular devices such as iPads, Galaxy Tablets, and others with capabilities of storing names and

phone numbers in electronic “address books;” sending, receiving, and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet.

28. Based on my knowledge, training, and experience, I know that electronic storage devices can store information for long periods of time. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the device and can sometimes be recovered with forensics tools. WASHINGTON and MACK utilize social media downloads, posts, and text messages as a platform to advertise suspected counterfeit shoes, clothing, and other accessories. Pictures and videos of the clothing and accessories are taken by WASHINGTON and MACK and/or downloaded from the internet and posted within WASHINGTON’S Facebook accounts. Furthermore, MACK utilizes instant messaging through the electronic device or an application within the device to communicate with customers in the sale of counterfeit merchandise. These postings and messages are solely and specifically carried out through the use of electronic storage devices.

CONCLUSION

29. Based on the foregoing, it is my belief that probable cause exists for the issuance of a search warrant to search the premises described in Attachment A for the items set forth in Attachment B.

30. This affidavit has been reviewed by Assistant United States Attorney Amy F. Bower.

J. Shane Brim

J. Shane Brim
Special Agent
Homeland Security Investigations

SWORN TO ME VIA
TELEPHONE OR OTHER RELIABLE ELECTRONIC
MEANS AND SIGNED BY ME PURSUANT TO
FED. R. CRIM. P. 41 AND 4(D) OR 41(D)(3), AS APPLICABLE

This 28th day of April, 2021
Charleston, South Carolina

Mary Gordon Baker
THE HONORABLE MARY GORDON BAKER
United States Magistrate Judge